

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

Beverly Leutloff, individually and on behalf of all others similarly situated, and June A. Pedersen, individually,	)	
	)	
Plaintiffs,	)	
v.	)	<b>Case No. 4:21-cv-03590</b>
	)	
Kinder Morgan, Inc., Kinder Morgan Retirement Plan A, Kinder Morgan Retirement Plan B, T. Mark Smith, Jesse Arenivas, Adam Foreman, Michael Garthwaite, Kenneth Grubb, Mark Huse, and Matthew Wojtalewicz,	)	
	)	
Defendants.	)	

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**PLAINTIFFS’ NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiffs file this notice of supplemental authority to call the Court’s attention to *Bafford v. Northrup Grumman Pension Plan Admin. Comm.*, \_\_ F.4th \_\_, 2024 WL 2067884, 2024 U.S. App. LEXIS 11315 (9th Cir. May 9, 2024), concerning the likely harm to retirement plan participants from inaccurate benefit statements. Plaintiffs already cited a 2021 Ninth Circuit decision in the *Bafford* litigation, which is reported at 994 F.3d 1020, to support Claim V of their Complaint on the retirement benefits that were to be “unreduced at age 62 for ANR participants.” ECF No. 206 at 38. Defendants’ brief in opposition did not address Plaintiffs’ reliance on the 2021 *Bafford* decision. *See* ECF No. 215.

The 2024 *Bafford* decision again holds that in addition to breach of fiduciary claims there is a specific a cause of action to redress “substantially inaccurate pension benefit statements” under ERISA § 105(a)(1)(B), 29 U.S.C. § 1025(a)(1)(B). The Ninth Circuit further recognizes that “a participant who receives a significantly inaccurate statement may be affirmatively misled into

believing that their pension will be greater than it is and make inadvisable decisions as a result.”

2024 U.S. App. LEXIS 11315 at \*32.

The May 9, 2024 decision in *Bafford* is attached.

Dated: May 15, 2024

/s Joel R. Hurt

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**CERTIFICATE OF SERVICE**

I hereby certify that, on May 15, 2024, I electronically filed the foregoing Plaintiffs' Notice of Supplemental Authority with the Clerk of Court using the CM/ECF system, and that a copy was served on all counsel of record via CM/ECF.

/s Joel R. Hurt

Joel R. Hurt